

ESTTA Tracking number: **ESTTA53291**

Filing date: **11/14/2005**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	NBA Properties, Inc.
Granted to Date of previous extension	11/13/2005
Address	Olympic Tower - 645 Fifth Avenue New York, NY 10022 UNITED STATES

Correspondence information	Anil V. George Attorney for Opposer NBA Properties, Inc. Olympic Tower - 645 Fifth Avenue New York, NY 10022 UNITED STATES ipgroup@nba.com Phone:212-407-8330
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Applicant Information

Application No	78432706	Publication date	05/17/2005
Opposition Filing Date	11/14/2005	Opposition Period Ends	11/13/2005
Applicant	John McLendon Minority Scholarship Foundation, The P.O. Box 16428		

	Cleveland, OH 44116 UNITED STATES
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Goods/Services Affected by Opposition

Class 025.

All goods and services in the class are opposed, namely: Clothing, namely, shirts, T-shirts, golf shirts, woven and knit shirts, jerseys, sweaters, sweatshirts, tank tops, pants, sweatpants, shorts, footwear, hosiery, pajamas, sport shirts, rugby shirts, sweaters, belts, ties, nightshirts, jackets, coats, head and wrist bands, aprons, undergarments, gloves, mittens, athletic footwear, athletic shoes, athletic uniforms, bandanas, baseball caps, bathing suits, bathrobes, beachwear, belts, blazers, neckties, handkerchiefs, coats, combinations, fleece pullovers, ponchos, scarves, sweat suits, warm up suits

Attachments	scan1.pdf (3 pages)
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Signature	/Anil V. George/
Name	Anil V. George
Date	11/14/2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application of The John McLendon Minority Scholarship Fund

Serial No. : 78/432,706
MARK : CLEVELAND PIPERS
FILING DATE : June 9, 2004

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NBA Properties, Inc. :
Petitioner :
v. : Opposition No. _____
The John McLendon Minority Scholarship Fund :
Applicant :
-----X

NOTICE OF OPPOSITION

NBA Properties, Inc. ("Opposer") believes that it will be damaged by the registration of the proposed mark, CLEVELAND PIPERS (the "Mark"), identified in application serial number 78/432,706 and, hereby, opposes registration of the same in Class 25.

1. Opposer is a New York corporation having its principal office and place of business at Olympic Tower – 645 Fifth Avenue, New York, NY 10022.

2. Since long prior to June 9, 2004, the date of filing of the above identified Intent to Use application, Opposer has and now is engaged in the business of providing

assorted basketball entertainment services through the National Basketball Association (the "NBA").

3. The NBA provides such basketball entertainment services and related, collateral goods including clothing under assorted "retro" brands known as "Hardwood Classics." Included in the Hardwood Classics branding is the PITTSBURGH PIPERS trademarks. (the "Pipers Marks").

4. Opposer has used the Pipers Marks extensively and continuously. In connection thereto, Opposer has engaged in wide ranging promotional efforts and generated substantial sales. As a result, the Pipers Mark has become known to the public and is closely associated with the NBA and its goods and services. Thus, the Pipers Marks are identified as a source of origin and have generated substantial goodwill.

5. Opposer owns several registrations for the Pipers Mark, issued by the United States Patent and Trademark Office, which are validly subsisting and uncanceled, in International Class 25.

6. Notwithstanding Opposer's rights, Applicant seeks registration of the Mark for assorted clothing.

7. The Mark contains the word "PIPERS" along with the geographic designation "CLEVELAND" in connection with assorted clothing.

8. The Piper Marks also contain the word "PIPERS" along with a geographic designation for clothing.

9. Applicant's adoption and use of the Mark is without license or permission of Opposer.

10. Use of the Mark likely will cause people to believe that the relevant services are authorized, endorsed, or sponsored by the NBA when that is not the case.

11. Registration of the Mark would be contrary to and violate Trademark Act Sections 2(a), 15 U.S.C. § 1052(a), and 2(d), 15 U.S.C. § 1052(d), and, therefore, violate and diminish the prior and superior rights of Opposer in the Pipers Marks.

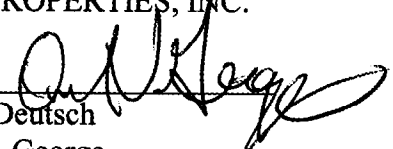
12. Opposer will be damaged if Application Serial No. 78/432,706 is granted registration because Applicant will obtain statutory rights in violation and derogation of the established prior and superior rights of Opposer.

13. WHEREFORE, Opposer prays that its opposition be sustained and that Application Serial No. 78/432,706 be refused and denied registration.

November 14, 2005

NBA PROPERTIES, INC.
Olympic Tower
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(212) 407-8000

NBA PROPERTIES, INC.

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